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# **Discrimination and public transport**

We are pleased to announce the launch of a new project that will provide legal assistance and funding to disabled people and older people who have faced discrimination when using, or trying to use, public transport.

Access to public transport is crucial for people to live independent and fulfilling lives, to work, to visit family and friends, and to participate in society. Despite this, transport options for disabled people and older people are severely limited because of the lack of accessible transport. On top of this, due to cuts to concessionary fares and local transport services, accessible transport options tend to be more expensive. As a result, many disabled people feel trapped by these high costs and limited options.[[1]](#footnote-1)

In June, we published our [Strategic Plan for 2019-22](https://www.equalityhumanrights.com/sites/default/files/strategic-plan-2019-22.pdf) which explains what we will work on over the next three years. Recognising the importance of accessible transport to the lives of disabled people and older people, and the need to ensure transport is available to all, the second of our five priority aims is that ‘public transport supports the economic and social inclusion of disabled people and older people’. To achieve this, we have set out the steps will we take including supporting passengers to legally challenge discrimination.

[Our legal support project for transport](https://www.equalityhumanrights.com/en/gwaith-achos-cyfreithiol/legal-support-project/legal-support-project-help-transport-discrimination) will provide legal assistance and funding to disabled people and older people so they can challenge transport providers when they experience discrimination. In doing so, we hope to benefit not just those individuals directly involved, but the wider public, by forcing transport providers to make changes to the way they deliver public transport in Scotland. The project will accept applications in Scotland from advisers and solicitors who are representing clients. We will also consider applications from individuals themselves who we may be able to represent in-house. Assistance or funding can only be offered where a case relates to the specific provisions in the [Equality Act 2010](https://www.legislation.gov.uk/ukpga/2010/15/contents) that cover transport, and where the discrimination is related to the protected characteristics of disability or age. Instances of discrimination which may be covered by the Equality Act, and therefore by the project, could include a bus driver harassing a disabled passenger, a wheelchair user not being given the assistance required to board a train, or a visually impaired person being unable to access an online booking system.

Disabled people and older people have been challenging transport providers for a long time on the issues of discrimination and accessibility. We are determined that the [legal support project for transport](https://www.equalityhumanrights.com/en/gwaith-achos-cyfreithiol/legal-support-project/legal-support-project-help-transport-discrimination) will give them the support and assistance to be heard and to bring about positive changes across the country. The following cases illustrate when and how the Equality Act can be used to tackle discriminatory behaviour in the provision of transport.

**Paulley v FirstGroup Plc [2017] 1 W.L.R. 423**

Mr Paulley, a wheelchair user, tried to board a bus but was unable to do so because the wheelchair space was occupied by a passenger with a pushchair. The bus driver asked the passenger to fold up the pushchair but she refused to do this and Mr Paulley could not board the bus. He subsequently missed a rail connection as a result.

The case, part of which we funded, ended up in the Supreme Court where it was concluded that the bus company had been in breach of the Equality Act by failing to make reasonable adjustments for Mr Paulley. It was recommended that bus companies should have a less ‘pallid’ policy to deal with a situation where a passenger occupied the wheelchair space and unreasonably refused to move. The judgements means that wheelchair users should be given priority for wheelchair spaces on buses and that bus companies should not operate a ‘first come first served’ policy in this way. It also recommended that bus companies should have clear policies in place and give training to drivers to remove the barriers wheelchair users face when using buses.

**Roads v Central Trains Ltd [2004] EWCA Civ 154**

Mr Roads, who used an electric wheelchair, was unable to access one of the platforms at a local train station, which could only be reached by a footbridge. Mr Roads argued that Central Trains should provide him with a taxi to allow him to travel from one platform to the other. Central Trains offered two alternative solutions: Mr Roads could use an alternative route to reach the platform – although Mr Roads contended that this was a difficult and risky route for him – or he could travel to a nearby station which was adapted for disabled passengers.

The Court of Appeal found that Central Trains had failed in its duty to make reasonable adjustments and that providing a taxi for Mr Roads would have been a reasonable step. It was noted that the purpose of the reasonable adjustment duty is not a ‘minimalist policy of simply ensuring that some access is available to the disabled’ but, in fact, is to ‘approximate the access enjoyed by disabled persons to that enjoyed by the rest of the public’. Although this case pre-dates the Equality Act 2010, the principles of the reasonable adjustment duty, which were argued here under the Disability Discrimination Act 1995, remain similar today.

[Find out more about the legal support project for transport.](https://www.equalityhumanrights.com/en/legal-casework/legal-support-project/legal-support-project-help-transport-discrimination-claims)

You can also email us at transportproject-scotland@equalityhumanrights.com or phone us on 0141 228 5959.

1. Equality and Human Rights Commission, [Being disabled in Britain: A journey less equal](https://www.equalityhumanrights.com/sites/default/files/being-disabled-in-britain.pdf), p.124. [↑](#footnote-ref-1)